

## INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule Number

Rule Number

**He-P 4041.02, 4045.01,  
4045.03(c)intro.,  
4045.10 & 4070.06,  
Table 4070.2**

1. Agency Name & Address:

**Dept. of Health & Human Service  
Radiological Health Section  
29 Hazen Drive  
Concord, NH 03301**

2. RSA Authority:

**RSA 125-F:5, VI**

3. Federal Authority:

**Section 274 of the Atomic  
Energy Act of 1954 as  
amended**

4. Type of Action:

Adoption **X**

Amendment **X**

Repeal           

Readoption           

Readoption w/amendment **X**

5. Filing Date: **October 7, 2016**

6. Short Title: **Radiation or MRI Machine Security Screening System Non-medical**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

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8. Summary explaining the effect of the rule:

The Department of Health and Human Services (Department) is filing an interim rule proposal pursuant to RSA 541-A:19, I(a) in order to conform with a new state statute and chaptered session law effective July 1, 2016.

The Department proposes an interim rule amending He-P 4041.02, readopting with amendment He-P 4045.01, amending He-P 4045.03(c) and He-P 4070.06, Table 4070.2 and adopting He-P 4045.10 to implement the provisions of SB 406 now in Chapter Law 263:4 (2016) "Appropriation Department of Corrections; Scanners for State Correctional Facilities" and Chapter Law 263:6 (2016) "Appropriated Funds to the Department of Justice for Scanners for County Correctional Facilities." SB 406 makes the installation and use of security screening systems mandatory in state correctional facilities but leaves them optional in county correctional facilities.

The proposal introduces the new category of machine, a security screening system, states the requirements for safety, security, records keeping, and a required annual registration fee by amending He-P 4041.02, readopting with amendment He-P 4045.01, amending He-P 4045.03(c) and He-P 4070.06, Table 4070.2 and proposing to adopt a new section He-P 4045.10 "Security Screening System, Non-medical, Administrative Requirements."

The proposal adds new definitions for terms "backscatter", "backscatter system", "security screening system", and "transmission system" to He-P 4041.02. The proposal readopts with amendment existing section He-P 4045.01, amends He-P 4045.03(c) to add "security screening system (non-medical)", and amends He-P 4070.06, and Table 4070.2 to add an annual registration fee for use of the security screening system. The proposal also adds a new section He-P 4045.10 describing administration, safety, security, and records requirement of the systems.

Security screening systems are a non-medical use of x-ray machines that expose the user and the individuals targeted by the security screening scan to doses of x-ray which are potentially harmful. The purpose of the security screening system is to screen individuals entering and exiting the correctional facility. Those who may be screened and exposed to doses of x-ray include inmates, visitors, state officials, employees, contractors, vendors, and others. The proposal includes a \$275 registration fee for each machine. This fee is similar in amount to the fee for other screening machines registered by correctional facilities.

9. Listing of people, enterprises, and government agencies affected by the rule:

Those affected by the interim rule will be those county and state correctional facilities affected by Chapter Law 263:4 and 263:6 (2016).

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

<b>RULE</b>	<b>STATE OR FEDERAL STATUTE THE LAW IMPLEMENTS</b>
He-P 4041.02(n), (o), (en), (fi)	21 CFR 1020.30, 1020.31, 1020.32, 1020.33, 1020.40
He-P 4045.01	RSA 125-F:1, F:2, F:5 II & V
He-P 4045.03(c) intro.	RSA 125-F:1, F:2, 125-F:5, II & V; 21 CFR 1020.30, 1020.31, 1020.32, 1020.40
He-P 4045.10	RSA 125-F:1, F:2, F:5
He-P 4070.06, Table 4070.2	RSA 125-F:1, F:2, F:5, II & V

11. Summary of the effect upon the state if the rule were not adopted:

**If the interim rule were not adopted, the security screening systems would not be registered and inspected to insure the safety of the community, and the safe operation of the machines. Pursuant to RSA 125-F:5, VI, DHHS/RHS is required to register the radiation producing machines which include these systems. The interim rule is needed to enable DHHS/RHS to comply with New Hampshire law.**

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

**October 20, 2016**

**Amend He-P 4041.02, effective 3/28/15 (Document #10806), by inserting new paragraphs (n), (o), (en) and (fi) and renumbering the remaining existing paragraphs in sequence, so that He-P 4041.02(n), (o), (en) and (fi) are cited and read as follows:**

He-P 4041.02 Definitions.

(n) "Backscatter" means the scattering of radiation or particles in a direction opposite to that of the incident radiation due to reflection from particles of the medium traversed.

(o) "Backscatter system" means a security screening system that makes use of radiation scattered or deflected from an object or person to form an image of the scattering object or person.

(en) "Security screening system" means a non-medical use screening system designed for the detection of contraband and weapons concealed on a person or in a vehicle while being occupied by one or more people.

(fi) "Transmission system" means a security screening system using the conventional means of radiographic imaging in which x-rays pass through a target (e.g., person or container) and create shadow-grams of enclosed objects, such as contraband, based on their radiation attenuating properties.

**Readopt with amendment He-P 4045.01, effective 7-21-15 (Document #10893), cited and to read as follows:**

He-P 4045.01 Purpose. He-P 4045 establishes the administrative and operational requirements for users of radiation or MRI machines in the healing arts, ~~and~~ and security screening systems (non-medical).

**Amend He-P 4045.03(c) intro., effective 7/21/15 (Document #10893), cited and to read as follows**

He-P 4045.03 Administrative Controls.

(c) All MRI machine and security screening system (non-medical) operators shall be able to demonstrate competence in the operation of the machine as required by (b) above, including, at a minimum, competence in the following areas:

**Adopt He-P 4045.10 to read as follows:**

He-P 4045.10 Security Screening System, Non-medical.

(a) All security screening systems (non-medical) shall be exempt from the requirements of He-P 4045.03(l) and (m).

(b) Radiation safety surveys shall be conducted on security screening systems upon installation and after any maintenance or incident that may have damaged the system that affects the radiation machine performance.

(c) All security screening systems (non-medical) shall follow suggested manufacturer maintenance procedures and operability checks.

(d) All maintenance and radiation survey records shall be maintained for review by DHHS/RHS during an inspection.

Amend He-P 4070.06, Table 4070.2, effective 6-25-15 (Document #10865), by inserting a new category E.1.d. so that He-P 4070.06, Table 4070.2, E.1.d. reads as follows:

He-P 4070.06 Schedule of Annual Fees for Certificates of Registration for Radiation or MRI Machines.

Table 4070.2 Annual Fees for Radiation or MRI Machine Registration

<u>Type of Radiation or MRI Machine</u>	<u>Annual Fee</u>
E. Other circumstances	
1. Radiation or MRI machines not otherwise specified above used for the following purpose:	
<u>d. Security Screening System (non-medical)</u>	<u>\$275</u>

Appendix

RULE	STATE OR FEDERAL STATUTE THE LAW IMPLEMENTS
He-P 4041.02(n), (o), (en), (fi)	21 CFR 1020.30, 1020.31, 1020.32, 1020.33, 1020.40
He-P 4045.01	RSA 125-F:1, F:2, F:5 II & V
He-P 4045.03(c) intro.	RSA 125-F:1, F:2, 125-F:5, II & V; 21 CFR 1020.30, 1020.31, 1020.32, 1020.40
He-P 4045.10	RSA 125-F:1, F:2, F:5
He-P 4070.06, Table 4070.2	RSA 125-F:1, F:2, F:5, II & V